

# **KENTUCKY DEPARTMENT OF EDUCATION**

## **STAFF NOTE**

### **Review Item:**

Status report on new special education regulations

### **Applicable Statute or Regulation:**

707 KAR 1:280-380 Compliance with state and federal special education program requirements

### **History/Background:**

*Existing Policy.* Congress passed the Individuals with Disabilities Education Act of 2004 and the U. S. Department of Education is currently working on new administrative regulations to provide guidance to states. Because of changes in the federal law, Kentucky's state administrative regulations contained in 707 KAR Chapter 1 will have to be revised. Most of the changes are necessary in order to conform to the new federal law and will be incorporated with the revision of Kentucky's regulations once the new federal administrative regulations become final. There are several areas of the new federal law, however, that will require state regulations on subjects but will give discretion to the states. Consequently, the Kentucky Board of Education and the Kentucky Department of Education (KDE) must make decisions as to how to proceed in the drafting of state regulations around these issues. Attached is a "Decision Points Document" (Attachment A) that reflects recommendations from Kentucky Department of Education on these issues based on extensive feedback from stakeholder groups in forums, surveys, etc. Department staff desire feedback on the recommendations in the attachment.

The Kentucky Board of Education received a mailing prior to the February meeting on the content of the changes to the federal law similar to the attached document. Since then, the Department has worked with additional constituent groups and has further refined the aforementioned "Decision Points Document", outlining the major draft regulation proposals.

The topics under consideration are eligibility, the individual education program and procedural safeguards.

- Eligibility – The state is permitted to establish statewide eligibility requirements to address inconsistencies that may occur at the school district level.
- Individual Education Program (IEP) – The provisions of this section include: provides standard timelines (60 days) following the receipt of a parent consent for initial evaluation of a child to be completed and if eligible, specially designed instruction and related services will be provided; provides language around members being excused from meetings; provides flexibility in determining the use of benchmarks or short-term objectives if the Admissions and Release Committee (ARC) deems it appropriate; prohibits substantive revisions to the IEP without an ARC meeting to discuss the need for the changes; and requires a postsecondary

transition plan when the child reaches the age of 14 with actual services to begin at least at age 16.

- Procedural safeguards– The provisions of this section require districts to appoint a surrogate for any child that needs one and allow for an Admissions and Release Committee rather than school personnel to remove a child to an alternative placement for weapons, drugs or serious injury if certain steps are added to the current process.

**Groups Consulted and Brief Summary of Responses:**

The Kentucky Department of Education (KDE) has solicited input from the following groups to make decisions regarding the recommendations in the attached document: An electronic survey on the KDE website that received over 400 responses, Kentucky Council for Exceptional Children (KYCEC), Kentucky Council of Administrators of Special Education (KYCASE), Special Education Cooperatives, State Advisory Panel for Exceptional Children, twenty-two Focus Groups conducted regionally throughout Kentucky, KDE's Office of Special Instructional Services Advisory Committee, United Partners in Kentucky, Kentucky School Boards Association (KSBA), and Kentucky Special Parent Information Network.

The recommendations in the attachment are based on majority responses from the feedback. However, specific recommendation on which KSBA submitted disagreement and the rationale for that disagreement are included in the attached "Decision Points Document".

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**Deputy Commissioner**

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**Commissioner of Education**

**Date:**

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